IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION No.13533 of 2004

Between:

M/s. V.V. Ram Prasad,

Chirala, Prakasam District,
Rep. by its Proprietor Mr. V.V.Ram Prasad,

S/o. Nageswara Rao, Age. 40. **..... PETITIONER**

AND

1.The Joint/Additional Commissioner (FAC),

O/o. Commissioner of Commercial Taxes,
M.J. Road, Nampally, Hyderabad.
2.The Appellate Deputy Commissioner (CT),

Guntur, Guntur District.
3.The Commerccial Tax Officer,

Chirala, Prakasam District. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the action of the first respondent herein in CCT's Ref. No. LV(1)/1341 & 1344/2002 dt. 12.07.2004 dismissing the stay petition filed by the petitioners for assessment years 1999-2000 to 2001-2002 as illegal, arbitrary,

improper, unjust and consequently direct the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeals on the file of Sales Tax Appellate Tribunal, Hyd and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondent: GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER: (PER Sri Bilal Nazki, J)

Heard learned Counsel for the parties. With their consent, the Writ Petition is being disposed of at this stage.

The controversy is that pending an appeal, application for stay was dismissed by the competent authority. We have gone through the record. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of four weeks. For four weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

(BILAL NAZKI, J)

3rd August, 2004

(S.ANANDA REDDY, J)

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To:

1.The Joint/Additional Commissioner (FAC),

O/o. Commissioner of Commercial Taxes,
M.J. Road, Nampally, Hyderabad.
2.The Appellate Deputy Commissioner (CT),

Guntur, Guntur District.
3.The Commerccial Tax Officer,

Chirala, Prakasam District.

4.Two CCs to the G.P. for Commercial Taxes,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

5.Two CD copies.